

CHAPTER 173-181 WAC **FACILITY CONTINGENCY PLAN AND RESPONSE** **CONTRACTOR STANDARDS**

Last Update: 11/5/91

WAC

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WAC 173-181-010 Purpose. The purpose of this chapter is to establish onshore and offshore facility oil spill contingency plan requirements and response contractor standards which, when followed, will:

- (1) Maximize the effectiveness and timeliness of oil spill response by responsible parties and response contractors;
- (2) Ensure readiness of equipment and personnel;
- (3) Support coordination with state, federal, and other contingency plans; and
- (4) Provide improved protection of Washington waters and natural resources from the impacts of oil spills.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-010, filed 11/5/91, effective 12/6/91.]

WAC 173-181-020 Authority. RCW 90.48.371, 90.48.372, 90.48.373, 90.48.374, 90.48.375, 90.48.376, 90.48.377, and 90.48.380, as recodified by section 1115, chapter 200, Laws of 1991, provide statutory authority for the contingency plan preparation and review requirements and response contractor standards established by this chapter.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-020, filed 11/5/91, effective 12/6/91.]

WAC 173-181-030 Definitions.

- (1) “Average efficiency factor” means a factor used to estimate limitations of equipment efficiency from variables such as sea state, current velocity, or visibility.
- (2) “Best achievable technology” means the technology that provides the greatest degree of protection, taking into consideration processes that are developed, or could feasibly be developed given overall reasonable expenditures on research and development, and processes that are currently in use. In determining what is best achievable technology, the director shall consider the effectiveness, engineering feasibility, and commercial availability of the technology.
- (3) “Board” means the pollution control hearings board.
- (4) “Bulk” means material that is stored or transported in a loose, unpackaged liquid, powder, or granular form capable of being conveyed by a pipe, bucket, chute, or belt system.
- (5) “Cargo vessel” means a self-propelled ship in commerce, other than a tank vessel or a passenger vessel, of greater than three hundred or more gross tons, including but not limited to commercial fish processing vessels and freighters.
- (6) “Department” means the state of Washington department of ecology.
- (7) “Director” means the director of the state of Washington department of ecology.
- (8) “Discharge” means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.
- (9)(a) “Facility” means any structure, group of structures, equipment, pipeline, or device, other than a vessel, located on or near the navigable waters of the state that (both):
 - (i) Transfers oil in bulk to or from a tank vessel or pipeline; and
 - (ii) Is used for producing, storing, handling, transferring, processing, or transporting oil in bulk.
- (b) A facility does not include any:
 - (i) Railroad car, motor vehicle, or other rolling stock while transporting oil over the highways or rail lines of this state;
 - (ii) Underground storage tank regulated by the department or a local government under chapter 90.76 RCW;
 - (iii) Motor vehicle motor fuel outlet;
 - (iv) Facility that is operated as part of an exempt agricultural activity as provided in RCW 82.04.330; or
 - (v) Marine fuel outlet that does not dispense more than three thousand gallons of fuel to a ship that is not a tank vessel, cargo vessel, or passenger vessel, in a single transaction.
- (10) “Gross ton” means a vessel’s approximate volume as defined under Title 46, United States Code of Federal Regulations, Part 69.
- (11) “Interim storage site” means a site used to temporarily store recovered oil or oily waste until the recovered oil or oily waste is disposed of at a permanent disposal site. Interim storage sites include trucks, barges, and other vehicles used to store recovered oil or oily waste until transport begins.
- (12) “Liquefied petroleum gas” means petroleum gas converted to a liquid state by pressure and cooling, including but not limited to natural gas, butane, and propane.

- (13) “Marine facility” means any facility used for tank vessel wharfage or anchorage, including any equipment used for the purpose of handling or transferring oil in bulk to or from a tank vessel.
- (14) “Maximum extent practicable” means the highest level of effectiveness that can be achieved through staffing levels, training procedures, and best achievable technology. In determining what is the maximum extent practicable, the director shall consider the effectiveness, engineering feasibility, commercial availability, safety, and the cost of the measures.
- (15) “Navigable waters of the state” means those waters of the state, and their adjoining shorelines, that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.
- (16) “Offshore facility” means any facility, as defined in subsection (9) of this section, located in, on, or under any of the navigable waters of the state, but does not include a facility, any part of which is located in, on, or under any land of the state, other than submerged land.
- (17) “Oil” or “oils” means naturally occurring liquid hydrocarbons at atmospheric temperature and pressure coming from the earth, including condensate and natural gasoline, and any fractionation thereof, including, but not limited to, crude oil, petroleum, gasoline, fuel oil, diesel oil, oil sludge, oil refuse, and oil mixed with wastes other than dredged spoil. Oil does not include any substance listed in Table 302.4 of 40 C.F.R. Part 302 adopted August 14, 1989, under section 101(14) of the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by P.L. 99-499.
- (18) “Oily waste” means oil contaminated waste resulting from an oil spill or oil spill response operations.
- (19) “Onshore facility” means any facility, as defined in subsection (9) of this section, any part of which is located in, on, or under any land of the state, other than submerged land, that because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters of the state or the adjoining shorelines.
- (20)(a) “Owner or operator” means:
- (i) In the case of an onshore or offshore facility, any person owning or operating the facility; and
 - (ii) In the case of an abandoned onshore or offshore facility, the person who owned or operated the facility immediately before its abandonment.
- (b) “Operator” does not include any person who owns the land underlying a facility if the person is not involved in the operations of the facility.
- (21) “Passenger vessel” means a ship of greater than three hundred or more gross tons or five hundred or more international gross tons carrying passengers for compensation.
- (22) “Person” means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever.
- (23) “Pipeline” means, for the purposes of subsection (9)(a)(i) of this section, a pipeline connected to a marine facility, and not owned or operated by the facility referred to in subsection (9)(a) of this section.
- (24) “Plan” means oil spill response, cleanup, and disposal contingency plan.

- (25) “Primary response contractor” means a response contractor that is directly responsible to a contingency plan holder, either by a contract or written agreement.
- (26) “Response contractor” means an individual, organization, association, or cooperative that provides or intends to provide equipment and/or personnel for oil spill containment, cleanup, and/or removal activities.
- (27) “Ship” means any boat, ship, vessel, barge, or other floating craft of any kind.
- (28) “Spill” means an unauthorized discharge of oil which enters waters of the state.
- (29) “Tank vessel” means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:
- (a) Operates on the waters of the state; or
 - (b) Transfers oil in a port or place subject to the jurisdiction of this state.
- (30) “Waters of the state” includes lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.
- (31) “Worst case spill” means:
- (a) For an offshore facility, the largest possible spill considering storage, production, and transfer capacity complicated by adverse weather conditions (during which wind, reduced visibility, and sea state hinder but do not preclude normal response operations); or
 - (b) For an onshore facility, the entire volume of the largest above ground storage tank on the facility site complicated by adverse weather conditions (during which wind, reduced visibility, and sea state hinder but do not preclude normal response operations), unless the department determines that a larger volume is more appropriate given a particular facility’s site characteristics and storage, production, and transfer capacity.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-030, filed 11/5/91, effective 12/6/91.]

WAC 173-181-035 Applicability.

- (1) Oil spill response, cleanup, and disposal contingency plans must be prepared, submitted, and used pursuant to requirements in this chapter, for onshore and offshore facilities.
- (2) Federal plans required under 33 C.F.R. 154, 40 C.F.R. 109, 40 C.F.R. 110, or the Federal Oil Pollution Act of 1990 may be submitted to satisfy plan requirements under this chapter if the department deems that such federal requirements possess approval criteria which equal or exceed those of the department.
- (3) Response contractors must be approved by the department before they may serve as primary response contractors for an onshore or offshore facility contingency plan.
- (4) For those sections of contingency plans which address liquified petroleum gases, the department may excuse plan holders from meeting requirements in this chapter that are not applicable to spill response for liquified petroleum gases due to their physical properties.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-035, filed 11/5/91, effective 12/6/91.]

WAC 173-181-040 Plan preparation.

- (1) Each onshore and offshore facility shall prepare a contingency plan for the containment and cleanup of oil spills from the facility into the waters of the state, and for the protection of fisheries and wildlife, other natural resources, and public or private property from such spills.
- (2) Plans shall be in a form usable for oil spill control, containment, cleanup, and disposal operations and shall be capable of being located according to requirements in WAC 173-181-075.
- (3) Plans shall be thorough and contain enough information, analyses, supporting data, and documentation to demonstrate the plan holder's ability to meet the requirements of this chapter.
- (4) Plans shall be designed to be capable to the maximum extent practicable, when implemented, of promptly and properly removing oil and minimizing environmental damage from a variety of spill sizes, including small chronic spills, and worst case spills. At a minimum, plans shall meet the criteria specified in WAC 173-181-045 and 173-181-050; criteria are presented in suggested but not requisite order.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-040, filed 11/5/91, effective 12/6/91.]

WAC 173-181-045 Plan format requirements.

- (1) Plans shall be prepared using a combined narrative and graphic format which facilitates both the study of detailed spill response information and quick access to general information given emergency information needs and time constraints.
- (2) Plans shall be divided into a system of chapters and appendices. Chapters and sections shall be numbered. Chapters should be reserved primarily for information on emergency response and cleanup operations, such as notification procedures or description of the spill response organization structure. Appendices should be used primarily for supplemental background and documentation information, such as response scenarios or description of drills and exercises.
- (3) A system of index tabs shall be used to provide easy reference to particular chapters or appendices.
- (4) Plans shall be formatted to allow replacement of chapter or appendix pages with revisions without requiring replacement of the entire plan.
- (5) A simplified field document suitable for on-site use in the event of a spill and summarizing key notification and action elements of the plan shall also be prepared and submitted as part of the plan.
- (6) Computerized plans may be submitted to the department in addition to a hard copy. Computerized plans, accompanied by a hard copy, may be used to meet the requirements of WAC 173-181-075.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-045, filed 11/5/91, effective 12/6/91.]

WAC 173-181-050 Plan content requirements.

- (1) Each plan shall contain a submittal agreement which:

- (a) Includes the name, address, and phone number of the submitting party;
 - (b) Verifies acceptance of the plan, including any incorporated contingency plans, by the owner or operator of the facility by either signature of the owner or operator or signature by a person with authority to bind the corporation which owns such facility;
 - (c) Commits execution of the plan, including any incorporated contingency plans, by the owner or operator of the facility, and verifies authority for the plan holder to make appropriate expenditures in order to execute plan provisions; and
 - (d) Includes the name, location, and address of the facility, type of facility, starting date of operations, types of oil(s) handled, and oil volume capacity.
- (2) Each plan shall include a log sheet to record amendments to the plan. The log sheet shall be placed at the front of the plan. The log sheet shall provide for a record of the section amended, the date that the old section was replaced with the amended section, verification that the department was notified of the amendment pursuant to WAC 173-181-080(3), and the initials of the individual making the change. A description of the amendment and its purpose shall also be included in the log sheet, or filed in the form of an amendment letter immediately after the log sheet.
- (3) Each plan shall include a detailed table of contents based on chapter, section, and appendix numbers and titles, as well as tables and figures.
- (4) Each plan shall describe the purpose and scope of that plan, including:
- (a) The geographic area covered by the plan;
 - (b) The onshore facility or offshore facility operations covered by the plan; and
 - (c) The size of the worst case spill from the facility.
- (5) Each plan shall describe the procedures and time periods corresponding to updates of the plan and distribution of the plan and updates to affected and interested parties.
- (6) Each plan shall present a strategy to ensure use of the plan for spill response and cleanup operations pursuant to requirements in WAC 173-181-075.
- (7) Each plan shall describe the organization of the spill response system, including all task assignments addressed by requirements of this section. This description shall identify the role of an incident commander or primary spill response manager, who shall possess the lead authority in spill response and cleanup decisions. The plan shall describe how a smooth transfer of the incident commander or primary spill response manager position between individuals will be accomplished. An organizational diagram depicting the chain of command shall also be included.
- (8)(a) For each primary response contractor which a plan holder may or does rely on to perform or supplement its response operations within the geographic area covered by the plan, the plan shall state that contractor's name, address, phone number, or other means of contact at any time of the day, and response capability (e.g., land spills only). For each primary response contractor, the plan shall include a letter of intent signed by the primary response contractor which indicates the contractor's willingness to respond. Copies of written contracts or agreements with primary response contractors shall be available for inspection, if requested by the department.
- (b) If a plan holder is a member of an oil spill response cooperative and relies on that cooperative to perform or supplement its response operations within the geographic area

- covered by the plan, the plan shall state the cooperative's name, address, phone number, and response capability. The plan shall also include proof of cooperative membership.
- (c) Plans which rely on primary response contractors shall rely only on primary response contractors approved by the department under WAC 173-181-090.
- (9) Each plan shall briefly describe its relation to all applicable local, state, regional, and federal government response plans. Plans shall address how the plan holder's response organization will be coordinated with an incident command system utilized by state and federal authorities.
- (10) Each plan shall list procedures which will be used to detect and document the presence and size of a spill, including methods which are effective during low visibility conditions. In addition, the plan shall describe the use, if any, of mechanical or electronic monitoring or alarm systems (including threshold sensitivities) used to detect oil discharges into adjacent land or water from tanks, pipes, manifolds, and other transfer or storage equipment.
- (11) Each plan shall describe procedures which will be taken to immediately notify appropriate parties that a spill has occurred.
- (a) The plan holder shall maintain a notification call out list which shall be available if requested by the department for inspection, and which:
- (i) Provides a contact at any time of the day for all spill response personnel identified under subsection (7) of this section, including the contact's name, position title, phone number or other means of contact for any time of the day, and an alternate contact in the event the individual is unavailable;
- (ii) Lists the name and phone number of all government agencies which must be notified in the event of an oil spill pursuant to requirements under RCW 90.48.360 as recodified by section 1115, chapter 200, Laws of 1991, and other state and federal requirements; and
- (iii) Establishes a clear order of priority for immediate notification;
- (b) The plan shall identify a central reporting office or individual who is responsible for implementing the call out process; and
- (c) The plan shall utilize a system of categorizing incident type and severity. Plan holders are encouraged to utilize the system established by the department in the Washington state-wide master oil and hazardous substance spill contingency plan as developed pursuant to RCW 90.48.378 as recodified by section 1115, chapter 200, Laws of 1991.
- (12) Each plan shall describe the personnel (including contract personnel) available to respond to an oil spill, including:
- (a) A job description for each type of spill response position needed as indicated in the spill response organization scheme addressed in subsection (7) of this section;
- (b) The number of personnel available to perform each type of spill response position;
- (c) Arrangements for prepositioning personnel at strategic locations which will meet criteria pursuant to WAC 173-181-065 (3)(d);
- (d) The type and frequency of spill response operations and safety training that each individual in a spill response position receives to attain the level of qualification demanded by their job description; and
- (e) The procedures, if any, to train and use volunteers willing to assist in spill response

operations. Volunteer procedures for wildlife rescue shall comply with rules adopted by the Washington department of wildlife.

- (13)(a) Each plan shall list the type, quantity, age, location, maintenance schedule, and availability of equipment used during spill response, including equipment used for oil containment, recovery, storage, and removal, shoreline and adjacent lands cleanup, wildlife rescue and rehabilitation, and communication.
- (b) For equipment listed under (a) of this subsection that is not owned by or available exclusively to the plan holder, the plan shall also estimate the extent to which other contingency plans rely on that same equipment.
- (c) For oil containment and recovery equipment, the plan also shall include equipment make and model, and the manufacturer's nameplate capacity of the response equipment (in gallons per minute), and applicable design limits (e.g., maximum wave height capability; inland waters vs. open ocean).
- (d) Based on information described in (c) of this subsection, the plan shall state the maximum amount of oil which could be recovered per twenty-four-hour period.
- (e) For purposes of determining plan adequacy under WAC 173-181-065, and to assess realistic capabilities based on potential limitations by weather, sea state, and other variables, the data presented in (c) and (d) of this subsection will be multiplied by an average efficiency factor of twenty percent. The department will apply a higher efficiency factor for equipment listed in a plan if that plan holder provides adequate evidence that the higher efficiency factor is warranted for particular equipment. The department may assign a lower efficiency factor to particular equipment listed in a plan if it determines that the performance of that equipment warrants such a reduction.
- (f) The plan shall provide arrangements for prepositioning of oil spill response equipment at strategic locations which will meet criteria pursuant to WAC 173-181-065 (3)(d).
- (14) Each plan shall describe the communication system used for spill notification and response operations, including:
 - (a) Communication procedures;
 - (b) The communication function (e.g., ground-to-air) assigned to each channel or frequency used; and
 - (c) The maximum geographic range for each channel or frequency used.
- (15) Each plan shall describe the process to establish sites needed for spill response operations, including location or location criteria for:
 - (a) A central command post;
 - (b) A central communications post if located away from the command post; and
 - (c) Equipment and personnel staging areas.
- (16)(a) Each plan shall present a flowchart or decision tree describing the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The flowchart or decision tree shall describe the general order and priority in which key spill response activities are performed.
- (b) Each plan shall describe all key spill response operations in checklist form, to be used by spill response managers in the event of an oil spill.

- (17)(a) Each plan shall list the local, state, and other government authorities responsible for the emergency procedures peripheral to spill containment and cleanup, including:
 - (i) Procedures to control fires and explosions, and to rescue people or property threatened by fire or explosion;
 - (ii) Procedures to control ground and air traffic which may interfere with spill response operations; and
 - (iii) Procedures to manage access to the spill response site.
- (b) Each plan shall describe the plan holder's role in these emergency operation procedures prior to the arrival of proper authorities.
- (18) Each plan shall describe equipment and procedures to be used by the facility personnel to minimize the magnitude of the spill and minimize structural damage which may increase the quantity of oil spilled. Damage control procedures shall include methods to slow or stop pipeline, storage tank, and other leaks, and methods to achieve immediate emergency shutdown.
- (19) Each plan shall describe, in detail, methods to contain spilled oil and remove it from the environment. Methods shall describe deployment of equipment and personnel, using diagrams or other visual aids when possible. Response methods covered must include:
 - (a) Surveillance methods used to detect and track the extent and movement of the spill;
 - (b) Methods to contain and remove oil in offshore waters;
 - (c) Methods to contain and remove oil in near-shore waters, including shoreline protection procedures and oil diversion/pooling procedures; and
 - (d) Methods to contain and remove oil, including surface oil, subsurface oil, and oiled debris and vegetation, from a variety of shoreline, adjacent land, and beach types.
- (20) Each plan shall briefly describe initial equipment and personnel deployment activities which will accomplish the response standard listed in WAC 173-181-065 (3)(d), and provide an estimate of the actual execution time.
- (21) If the plan holder will use dispersants, coagulants, bioremediants, or other chemical agents for response operations, conditions permitting, the plan shall describe:
 - (a) Type and toxicity of chemicals;
 - (b) Under what conditions they will be applied in conformance with all applicable local, state, and federal requirements, including the state-wide master oil and hazardous substance spill contingency plan;
 - (c) Methods of deployment; and
 - (d) Location and accessibility of supplies and deployment equipment.
- (22) If the plan holder will use in-situ burning for response operations, conditions permitting, the plan shall describe:
 - (a) Type of burning operations;
 - (b) Under what conditions burning will be applied in conformance with all applicable local, state, and federal requirements, including the state-wide master oil and hazardous substance spill contingency plan;
 - (c) Methods of application; and
 - (d) Location and accessibility of supplies and deployment equipment.

- (23) Each plan shall describe how environmental protection will be achieved, including:
- (a) Protection of sensitive shoreline and island habitat by diverting or blocking oil movement;
 - (b) Priorities for sensitive area protection in the geographic area covered by the plan as designated by the department in environmentally sensitive area maps referenced in the state-wide master oil and hazardous substance spill contingency plan;
 - (c) Rescue and rehabilitation of birds, marine mammals, and other wildlife contaminated or otherwise affected by the oil spill in compliance with rules adopted by the Washington department of wildlife; and
 - (d) Measures taken to reduce damages to the environment caused by shoreline and adjacent land cleanup operations, such as impacts to sensitive shoreline habitat by heavy machinery.
- (24)(a) Each plan shall describe site criteria and methods used for interim storage of oil recovered and oily wastes generated during response and cleanup operations, including sites available within the facility. Interim storage methods and sites shall be designed to prevent contamination by recovered oil and oily wastes.
- (b) If use of interim storage sites will require approval by local, state, or federal officials, the plan shall include information which could expedite the approval process, including a list of appropriate contacts and a brief description of procedures to follow for each applicable approval process.
 - (c) Each plan shall describe methods and sites used for permanent disposal of oil recovered and oily wastes generated during response and cleanup operations.
 - (d) Interim storage and permanent disposal methods and sites shall be sufficient to keep up with oil recovery operations and handle the entire volume of oil recovered and oily wastes generated.
 - (e) Interim storage and permanent disposal methods and sites shall comply with all applicable local, state, and federal requirements.
- (25) Each plan shall describe procedures to protect the health and safety of oil spill response workers, volunteers, and other individuals on-site. Provisions for training, decontamination facilities, safety gear, and a safety officer position shall be addressed.
- (26) Each plan shall explain post-spill review procedures, including methods to review both the effectiveness of the plan and the need for plan amendments. Post-spill procedures shall provide for a debrief of the department.
- (27)(a) Each plan shall describe the schedule and type of drills and other exercises which will be practiced to ensure readiness of the plan elements, including drills which satisfy WAC 173-181-070(3).
- (b) Tests of internal call out procedures shall be performed at least once every ninety calendar days and documented by the plan holder. Such tests are only required to involve notification, not actual deployment.
- (28) Unless the plan holder has received approval for a prevention plan submitted pursuant to chapter 200, Laws of 1991, each onshore facility and offshore facility plan shall describe measures taken to reduce the likelihood that a spill will occur which exceed or are not covered by existing state and federal requirements, including:
- (a) Type and frequency of personnel training on methods to minimize operational risks;

- (b) Methods to ensure equipment integrity, including inspection and maintenance schedules;
 - (c) Methods to reduce spills during transfer operations, including overfill prevention; and
 - (d) Secondary containment for tanks, pipes, manifolds, or other structures used for storage or movement of oil other than liquefied petroleum gases.
- (29) Each facility plan shall list the spill risk variables within the geographic area covered by the plan, including:
- (a) Types, physical properties, and amounts of oil handled;
 - (b) A written description and map indicating site topography, storm water and other drainage systems, mooring areas, pipelines, tanks, and other oil processing, storage, and transfer sites and operations; and
 - (c) A written description of sites or operations with a history of or high potential for oil spills.
- (30) Each plan shall list the environmental variables within the geographic area covered by the plan, including:
- (a) Natural resources, including coastal and aquatic habitat types and sensitivity by season, breeding sites, presence of state or federally listed endangered or threatened species, and presence of commercial and recreational species (environmental variable information may be obtained directly from environmentally sensitive area maps referenced in the state-wide master oil and hazardous substance spill contingency plan);
 - (b) Public resources, including public beaches, water intakes, drinking water supplies, and marinas;
 - (c) Seasonal hydrographic and climatic conditions; and
 - (d) Physical geographic features, including relative isolation of coastal regions, beach types, and other geological characteristics.
- (31) Each plan shall list the logistical resources within the geographic area covered by the plan, including:
- (a) Facilities for fire services, medical services, and accommodations; and
 - (b) Shoreline access areas, including boat launches.
- (32)(a) Each plan shall describe detailed, plausible, step-by-step response scenarios for:
- (i) A small oil spill less than five hundred gallons; and
 - (ii) A worst case spill as described in the plan pursuant to subsection (4)(c) of this section.
- (b) Each scenario description shall include:
- (i) The circumstances surrounding the spill, including size, type, location, climatic and hydrographic conditions, time, and cause;
 - (ii) An estimate of oil movement during the first seventy-two hours, including likely shoreline contact points; and
 - (iii) Estimates of response time and percent recovery for each major phase of operations.
- (c) If a plan applies to multiple facilities, each scenario description shall discuss implementation of the plan in the event of simultaneous separate spills.
- (33) Each plan shall include a glossary of technical terms and abbreviations used in the plan.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-050, filed 11/5/91, effective 12/6/91.]

WAC 173-181-060 Plan submittal.

- (1)(a) Plans for onshore facilities capable of storing one million gallons or more of oil, and offshore facilities shall be submitted to the department within six months after adoption of this chapter.
- (b) All other onshore facilities shall submit plans to the department by January 1, 1993.
- (2) Any onshore or offshore facility that first begins operating after the above deadlines shall submit a plan to the department at least sixty-five calendar days prior to the beginning of operations.
- (3) Three copies of the plan and appendices shall be delivered to:
Spill Management Section,
Contingency Plan Review
Washington Department of Ecology
PV-11
P.O. Box 47600
Olympia, WA 98504-7600
- (4) Onshore and offshore facility plans may be submitted by:
 - (a) The facility owner or operator; or
 - (b) A primary response contractor approved by the department pursuant to WAC 173-181-090, in conformance with requirements under WAC 173-181-050(1).
- (5) A single plan may be submitted for more than one facility, provided that the plan contents meet the requirements in this chapter for each facility listed.
- (6) The plan submitter may request that proprietary information be kept confidential under RCW 43.21B.160.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-060, filed 11/5/91, effective 12/6/91.]

WAC 173-181-065 Plan review.

- (1) The department shall endeavor to review each plan in sixty-five calendar days. Upon receipt of a plan, the department shall evaluate promptly whether the plan is incomplete. If the department determines that a plan is incomplete, the submitter shall be notified of deficiencies. The review period shall not begin until the department receives a complete plan.
- (2) The department shall regularly notify interested parties of any contingency plans which are under review by the department, and make plans available for review to all department programs, other state, local, and federal agencies, and the public. The department shall accept comments from these interested parties on the plan during the first thirty calendar days of review by the department.
- (3) A plan shall be approved if, in addition to meeting criteria in WAC 173-181-045 and 173-181-050, it demonstrates that when implemented, it can:
 - (a) To the maximum extent practicable, provide for prompt and proper response to and cleanup of a variety of spills, including small chronic spills, and worst case spills;
 - (b) To the maximum extent practicable, provide for prompt and proper protection of the environment from oil spills;
 - (c) Provide for immediate notification and mobilization of resources upon discovery of a spill;

- (d) Provide for initial deployment of response equipment and personnel at the site of the spill within one hour of the plan holder's awareness that a spill has occurred given suitable safety conditions; and
 - (e) Use as primary response contractors, only those response contractors approved by the department pursuant to WAC 173-181-090.
- (4) When reviewing plans, the department shall, in addition to the above criteria, consider the following:
- (a) The volume and type of oil(s) addressed by the plan;
 - (b) The history and circumstances of prior spills by similar types of facilities, including spill reports by department on-scene coordinators;
 - (c) The presence of operating hazards;
 - (d) The sensitivity and value of natural resources within the geographic area covered by the plan;
 - (e) Any pertinent local, state, federal agency, or public comments received on the plan;
 - (f) The extent to which reasonable, cost-effective spill prevention measures have been incorporated into the plan.
- (5) The department may approve a plan without a full review as per provisions of this section if that plan has been approved by a federal agency or other state which the department has deemed to possess approval criteria which equal or exceed those of the department.
- (6) The department shall prepare a manual to aid department staff responsible for plan review. This manual shall be made available to provide guidance for plan preparers. While the manual will be used as a tool to conduct review of a plan, the department will not be bound by the contents of the manual.
- (7) The department shall endeavor to notify the facility owner or operator within five working days after the review is completed whether the plan has been approved.
- (a) If the plan receives approval, the facility owner or operator shall receive a certificate of approval describing the terms of approval, including expiration dates.
 - (b)(i) The department may approve a plan conditionally by requiring a facility owner or operator to operate with specific precautionary measures until unacceptable components of the plan are resubmitted and approved.
 - (ii) Precautionary measures may include, but are not limited to, reducing oil transfer rates, increasing personnel levels, or restricting operations to daylight hours. Precautionary measures may also include additional requirements to ensure availability of response equipment.
 - (iii) A plan holder shall have thirty calendar days after the department gives notification of conditional status to submit and implement required changes to the department, with the option for an extension at the department's discretion. Plan holders who fail to meet conditional requirements or provide required changes in the time allowed shall lose conditional approval status.
- (c) If plan approval is denied, the facility owner or operator shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval. The facility shall not continue oil storage, transfer, production, or other operations until a plan for that

facility has been approved.

- (d) A plan holder may appeal the department's decision under WAC 173-04-010.
- (e) If a plan holder demonstrates an inability to comply with an approved contingency plan or otherwise fails to comply with requirements of this chapter, the department may, at its discretion:
 - (i) Place conditions on approval pursuant to (b) of this subsection; or
 - (ii) Revoke its approval pursuant to (c) of this subsection.
- (f) Approval of a plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under state law.
- (8) The department shall work with the office of marine safety to ensure that no duplication of regulatory responsibilities occurs in the review of contingency plans from marine facilities.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-065, filed 11/5/91, effective 12/6/91.]

WAC 173-181-070 Drills and inspections.

- (1) For the purpose of determining plan adequacy, the department may require a plan holder to participate in one unannounced full deployment drill annually. The department shall choose plan holders for such drills through a random process.
- (2) The department may require a plan holder to participate in one announced, limited deployment drill annually. The department shall choose plan holders for such drills through a random process.
- (3) Requirements under subsections (1) and (2) of this section may be met:
 - (a) By drills led by other state, local, or federal authorities if the department finds that the criteria for drill execution and review equal or exceed those of the department;
 - (b) By drills initiated by the plan holder, if the department is involved in participation, review, and evaluation of the drill, and if the department finds that the drill adequately tests the plan; and
 - (c) By responses to actual spill events, if the department is involved in participation, review, and evaluation of the spill response, and if the department finds that the spill event adequately tests the plan.
- (4) The department may excuse a primary response contractor from full deployment participation in more than one drill, if in the past twelve months, the primary response contractor has performed to the department's satisfaction in a full deployment drill or an exercise listed in subsection (3) of this section.
- (5) The department shall review the degree to which the specifications of the plan are implemented during the drill. The department shall endeavor to notify the facility owner or operator of the review results within thirty calendar days following the drill. If the department finds deficiencies in the plan, the department shall report those deficiencies to the plan holder and require the plan holder to make specific amendments to the plan pursuant to requirements in WAC 173-181-080.
- (6) The department shall publish an annual report on plan drills, including a summary of response times, actual equipment and personnel use, recommendations for plan requirement changes, and industry response to those recommendations.

- (7) The department may require the facility owner or operator to participate in additional drills beyond those required in subsections (1) and (2) of this section if the department is not satisfied with the adequacy of the plan during exercises or spill response events.
- (8) The department may verify compliance with this chapter by unannounced inspections in accordance with RCW 90.48.090.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-070, filed 11/5/91, effective 12/6/91.]

WAC 173-181-075 Plan maintenance and use.

- (1) At least one copy of the plan shall be kept in a central location accessible at any time by the incident commander or spill response manager named in accordance with WAC 173-181-050(7). Each facility covered by the plan shall possess a copy of the plan and keep it in a conspicuous and accessible location.
- (2) A field document prepared under WAC 173-181-045(5) shall be available to all appropriate personnel.
- (3) A facility owner or operator shall implement the plan in the event of a spill. The facility owner or operator must receive approval from the department before it conducts any major aspect of the spill response contrary to the plan unless:
 - (a) Such actions are necessary to protect human health and safety;
 - (b) Such actions must be performed immediately in response to unforeseen conditions to avoid additional environmental damage; or
 - (c) The plan holder has been directed to perform such actions by the department or the United States Coast Guard.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-075, filed 11/5/91, effective 12/6/91.]

WAC 173-181-080 Plan update timeline.

- (1) The department shall be notified in writing as soon as possible and within twenty-four hours of any significant change which could affect implementation of the plan, including a substantial decrease in available spill response equipment or personnel. The plan holder shall also provide a schedule for the prompt return of the plan to full operational status. A facsimile will be considered written notice for the purposes of this subsection. Changes which are not considered significant include minor variations in equipment or personnel characteristics, call out lists, or operating procedures. Failure to notify the department of significant changes shall be considered noncompliance with this chapter and subject to provisions of WAC 173-181-065 (7)(e).
- (2) If the department finds that, as a result of the change, the plan no longer meets approval criteria pursuant to WAC 173-181-065, the department may, in its discretion, place conditions on approval or revoke approval in accordance to WAC 173-181-065 (7)(e). Plan holders are encouraged to maintain back-up response resources in order to ensure that their plans can always be fully implemented.
- (3) Within thirty calendar days of an approved change, the facility owner or operator shall distribute the amended page(s) of the plan to the department and other plan holders.

- (4) Plans shall be reviewed by the department every five years pursuant to WAC 173-181-065. Plans shall be submitted for reapproval unless the plan holder submits a letter requesting that the department review the plan already in the department's possession. The plan holder shall submit the plan or such a letter at least sixty-five calendar days in advance of the plan expiration date.

- (5) The department may review a plan following any spill for which the plan holder is responsible.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-080, filed 11/5/91, effective 12/6/91.]

WAC 173-181-085 Noncompliance with plan requirements.

- (1) Any violation of this chapter may be subject to the enforcement and penalty sanctions of RCW 90.48.376 as recodified by section 1115, chapter 200, Laws of 1991.
- (2) The department may notify the secretary of state to suspend the business license of any onshore or offshore facility or other person that is in violation of this section. The department may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a facility or person is in violation of this section shall be considered a separate violation.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-085, filed 11/5/91, effective 12/6/91.]

WAC 173-181-090 Contractor standards.

- (1) Primary response contractors listed in an offshore or onshore facility contingency plan must be approved by the department. Response contractors which are listed in a contingency plan only as subcontractors to a primary response contractor do not have to be approved by the department.
- (2) Primary response contractors shall be approved by the department subject to the following conditions:
- (a) Equipment, equipment maintenance, and equipment and personnel deployment readiness must be verifiable by departmental inspection. Any resources not on site at the time of an inspection must be accounted for by company records. Approval of personnel readiness shall require capability of a one hour call out time in which personnel must be able to begin mobilization of response efforts. Equipment readiness shall include being available and able to be deployed to a spill site without delay, not counting normal maintenance and repairs;
 - (b) Response personnel shall comply with all appropriate safety and training requirements listed in WAC 296-62-300. Training records may be audited for verification; and
 - (c) Determination of an acceptable safety history by review of pertinent records on a case-by-case, best-professional-judgment basis. Lack of a safety history will not be grounds for denying approval.
- (3) The department shall work with the office of marine safety to ensure that no duplication of regulatory responsibilities occurs in the review of primary response contractors.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-090, filed 11/5/91, effective 12/6/91.]

WAC 173-181-092 Contractor approval information required. To apply for approval, contractors shall submit the following items to the department:

- (1) Contractor's name, UBI number, address, and phone number;

- (2) Response capability, including geographic area of response coverage, with any exclusions;
- (3) The types of oil and media (e.g., marine, fresh water, or land) to which the contractor is willing and able to respond;
- (4) An organizational diagram depicting chain of command;
- (5) A call out list as described in WAC 173-181-050 (11)(a)(i);
- (6) A list of all response equipment and personnel pursuant to WAC 173-181-050 (12)(a), (b), and (d) and (13)(a) and (c); and
- (7) A list of all OSHA/WISHA citations and reports, lost-time accidents, and accident claims related to oil spill response operations for the last five years. Any applicant with less than five years under their current business name or organization shall provide a listing of any oil spill response contract businesses owned or operated by the principals in the new company within the last five years, including a brief description of the companies and their safety history information listed above.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-092, filed 11/5/91, effective 12/6/91.]

WAC 173-181-094 Submittal of contractor approval applications.

- (1) Three copies of the contractor's approval application shall be delivered to:

Spill Management Section,
Response Contractor Approval
Washington Department of Ecology
PV-11
P.O. Box 47600
Olympia, WA 98504-7600

- (2) Applications may be submitted at any time after adoption of this chapter. If submitted with a contingency plan, the information required pursuant to WAC 173-181-092 shall be presented separately.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-094, filed 11/5/91, effective 12/6/91.]

WAC 173-181-096 Contractor application review.

- (1) The department shall endeavor to review each application for primary response contractor approval in forty-five calendar days. Upon receipt of an application, the department shall evaluate promptly whether the application is incomplete. If the department determines that an application is incomplete, the submitter shall be notified of deficiencies. The forty-five day review period shall begin when the application is complete.
- (2) An application shall be approved if it meets the conditions specified in WAC 173-181-090.
- (3) The department shall endeavor to notify the applicant that the application has been approved/not approved within five working days after the review is completed.
 - (a) If the application is approved, the contractor shall receive a certificate of approval describing the terms of approval, including expiration dates.
 - (b) If the application is not approved, the contractor shall receive an explanation of the factors for disapproval and a list of actions to be taken to gain approval. The contractor may not

act as a primary response contractor for a facility contingency plan until approved by the department.

- (c) A contractor may appeal the department's decision under WAC 173-04-010.
- (d) Approval of a response contractor by the department does not constitute an express assurance regarding the adequacy of the contractor nor constitute a defense to liability imposed under state law.
- (4) Response contractor approvals shall be reviewed by the department every two years pursuant to WAC 173-181-094. Reapproval applications shall be submitted sixty calendar days in advance of the approval expiration date.
- (5) An approved contractor shall notify the department in writing as soon as possible and within twenty-four hours of any significant change in the information reported in the approval application, such as a substantial change in equipment ownership. A facsimile received by the department will be considered written notice for the purposes of this subsection. Failure to notify the department may result in loss of approval status. Upon notification, the department may review the approval of the primary response contractor pursuant to this section. If the department determines that approval conditions are no longer met, approval may be withdrawn.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-096, filed 11/5/91, effective 12/6/91.]

WAC 73-181-098 Severability. If any provision of this chapter is held invalid, the remainder of the rule is not affected.

[Statutory Authority: RCW 90.48.035. 91-22-087 (Order 91-12), § 173-181-098, filed 11/5/91, effective 12/6/91.]